

INITIAL STATEMENT OF REASONS

Employment Status Notification - Delete Regulation 1003, Add Regulations 9040-9041, Amend Regulation 9073(b)

1003. Notice of Appointment/Termination.

~~Whenever a peace officer of a participating department is newly appointed, promoted to a first level supervisory, middle management or executive position (refer to Regulation 1001 for definitions), demoted, terminates, changes his/her name, or changes appointment status within the same department, the department shall notify the Commission within 30 days of such action on the "Notice of Appointment/Termination" form 2-114 (Rev. 4/2003).~~

~~For departments in the Public Safety Dispatcher Programs, the form shall be submitted whenever a person is appointed, promoted to a public safety dispatch supervisor position, changes his/her name, reclassified, or transferred to a public safety dispatcher position, or whenever the person is terminated from a public safety dispatcher position.~~

~~Eligibility to receive the Records Supervisor Certificate requires that the form be submitted a minimum of 30 days prior to application for award of the certificate for persons appointed, changed his/her name, promoted, reclassified, or transferred to a records supervisor position. The form shall also be submitted when the person is terminated from a records supervisor position.~~

Reason for Deletion: Regulation 1003 is being replaced by Regulations 9040-9041 in accordance with POST's Strategic Plan Objective C-4, an objective to revise and reformat the POST Administrative Manual.

Regulation 9040

EMPLOYMENT STATUS NOTIFICATIONS – PEACE OFFICERS, PUBLIC SAFETY DISPATCHERS, RECORDS SUPERVISORS

§ 9040 (a) Employment Status Notification Requirements

(1) **Peace Officers, Public Safety Dispatchers, and Records Supervisors.**

The employing department shall notify POST within 30 days, via the POST Electronic Data Interchange (EDI) system/NOAT application, of the personnel actions listed below [subsections (A)-(D)].

The use of the Notice of Appointment/Termination form, [POST 2-114](#) (rev. 04/2007), is acceptable if the department is not registered for EDI access or to request a correction to an incorrectly submitted transaction [Regulation [§9040\(b\)\(1\)](#)]. The EDI/NOAT application and POST 2-114 are incorporated by reference.

Reason: The chapter and section heading have been changed to more accurately reflect the contents in each. The 30-day requirement for employing departments to notify POST of personnel actions is not a new requirement (already in Regulation 1003), thus there is no regulatory effect just a change in format. POST is proposing to require that NOAT applications be submitted via the Electronic Data Interchange system because this is a more efficient and cost effective way for the information to be submitted and most employing departments have access to this system. There is still necessity to allow the hard copy, POST 2-114, for NOAT notification because there are still a few agencies that

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have not registered for EDI access. The text regarding requests for correction is necessary to refer readers to the new regulation requirement. It is also necessary in order to reduce the number of phone calls from agency personnel who want to know how to make corrections (the electronic system does not allow corrections to be made to previously submitted data). The incorporation statement is necessary pursuant to the APA.

(A) **Appointment and Termination Actions.** Actions that include an appointment or termination in employment status for a:

1. **Peace officer, or**

Reason: This text improves clarity and is a change of format. The new formatting style arranges the notification requirements by "action type" then by "classification." These changes have no regulatory effect.

- a. **Disqualifications.** Whenever a peace officer is adjudged guilty of a felony offense, or any other reason specified in Government Code §1029, the employing department shall notify the Commission within 30 days following the final adjudicative disposition by checking the appropriate box in the termination section of the EDI/NOAT application or the POST 2-114 form.

Reason: This is new regulation text. It is necessary to establish notification requirements for peace officer who are disqualified from holding office because there is no other way for POST to receive this information. These notification procedures implement Government Code § 1029, which requires POST to make certain notations on the records of individuals who are disqualified from being a peace officer. POST is allowing 30 days for the notification which is consistent with other required employment status notifications. The text: "following the final adjudicative disposition" is necessary so that agencies do not send POST these notifications while appeals are still being heard.

- b. **Additional documentation.** Within 30 days, notifications (as indicated in "1a" above) shall be followed up in writing to POST and signed by the department head and provide: 1) the name of the peace officer disqualified, 2) the disqualification reason pursuant to G.C. §1029, 3) the case number, 4) the name of the adjudicating court, 5) the date of adjudication, 6) the law enforcement jurisdiction responsible for investigation of the charge, and 7) official documentation substantiating the disqualification.

Reason: This text was added to provide agencies with specified data/documentation to submit to POST when notifying POST of an officer's disqualification. This section also provides more specificity to Regulation § 9071(b). If this specificity was not provided, POST would receive notifications that may or may not have the information POST needs in order to verify and record the disqualification in the POST database.

2. **Public safety dispatcher (only public safety dispatchers employed by a department participating in the POST Public Safety Dispatcher Program), or**

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Reason: Notification of the appointment or termination of public safety dispatcher is currently in Regulation 1003. The text has been reformatted and does not add any new requirements, thus there is no regulatory effect. The text in the parenthesis was added for clarity only.

3. Records supervisor

Reason: Currently Regulation 1003 requires the notification of appointed Records Supervisor only when the individual is applying for a certificate. This regulation change requires notification for all Records Supervisors upon or within 30 days of appointment. Collecting data on all Records Supervisors will allow POST to better access the Records Supervisor Certificate Program, e.g. the percentage of these individuals who are obtaining training and/or POST certificates.

(B) Name changes. Actions that include a name change that affect a peace officer's, public safety dispatcher's or records supervisor's personnel or POST record.

Reason: Notification of names changes is currently in Regulation 1003. This text is reformatted and adds clarity. The amendments have no regulatory effect.

(C) Classification changes. Actions that include a classification change:

1. From a reserve peace officer position to any other peace officer position (i.e. a non-reserve classification), public safety dispatcher, or records supervisor position (or vice versa), or
2. From a jail deputy position [Penal Code §830.1(c)] appointments] to a public safety dispatcher, or records supervisor position (or vice versa), or
3. From a public safety dispatcher position to a peace officer or records supervisor position (or vice versa), or
4. From a records supervisor position to a peace officer or public safety dispatcher position (or vice versa).

Reason: Notification of classification changes is currently in Regulation 1003. This text is reformatted and adds clarity. The amendments have no regulatory effect.

(D) Promotions or Demotions. Actions that include:

1. A promotion/demotion of a peace officer to a [first-level supervisory, middle management, or executive position](#), or
2. A promotion/demotion from one reserve officer level to another reserve officer level, or

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3. A promotion/demotion of a jail deputy [Penal Code §830.1(c) appointments] to any other peace officer position (or vice versa), or
4. A promotion/demotion of a public safety dispatcher to a public safety dispatcher supervisor position, or public safety dispatcher supervisor to a public safety dispatcher manager position (or vice versa), or
5. A promotion/transfer of any peace officer to an "interim or acting" department head position.

Reason: Notification of promotions and demotions is currently in Regulation 1003. This text is reformatted and adds clarity. The amendments have no regulatory effect. Subsection 5 above was added for clarity, since some agency personnel do not realize that interim and acting employment status changes must also be reported to POST. Reporting of promotions/transfers to interim or acting department head positions allows POST to have a more complete employment record.

§ 9040 (b) Employment Status Notification Changes.

- (1) **Incorrectly submitted transactions.** Occasionally a transaction will be incorrectly submitted via the EDI/NOAT application. If the department employee who submitted the transaction requests a correction within 14 days, the correction can be made telephonically by contacting POST EDI staff. After 14 days, a Notice of Appointment and Termination form, POST 2-114 (rev. 04/2007), shall be submitted to request the change, along with a brief explanation.

Reason: Regulation 1003 does not include a means by which departments can correct errors of information reported to POST. This new text describes the process for correcting errors. POST receives many inquiries from agency personnel regarding whether or not it is possible to correct the error and requests for instruction on how to accomplish the correction. The text above will eliminate the need for agency personnel to contact POST, as well as, formally adopt this procedure in regulation. In order to reduce workload for the agencies, POST is allowing a grace period of 14 days to make corrections via a phone call. This grace period is for errors recognized quickly by the agency as a wrong entry. Anything beyond that period of time, POST considers a change to the record's history and POST is requiring an explanation for the change.

- (2) **Changes in Department Personnel Actions.** When the department has terminated a person, but the termination is reversed by a court or an administrative hearing judge, the department shall notify POST in writing within 30 days of the change in personnel action. The department head shall submit a new Notice of Appointment/Termination form, POST 2-114 (rev. 04/2007), along with the official decision from the court or the administrative hearing judge.

Reason: Regulation 1003 does not inform agencies of the process to correct terminations that are reversed. For years POST has been enforcing the policies above, however, they have never been adopted into regulation. This text is being added in order to adopt these policies into regulation and to provide clear information to participating departments on how to handle personnel action reversals. Thirty days for notification to POST is consistent with all other employment status notifications.

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Regulation 9041

DISQUALIFICATION NOTIFICATIONS – FORMER PEACE OFFICERS

§ 9041 (a) Disqualification Notification Requirements

- (1) **Investigating Department.** Whenever a former peace officer is adjudged guilty of a felony offense, or any other reason specified in Government Code §1029 that disqualifies the individual from being employed as a peace officer, the law enforcement department responsible for the investigation of the circumstances that led to the disqualification shall notify the Commission, within 30 days, in writing of the final adjudicative disposition.

Reason: This is new regulation text and it is slightly different then Regulation § 9041(a)(1)(A)1.a. This regulation places a notification requirement on the investigating department. It is necessary to establish this notification requirements for peace officer who are disqualified from holding office because as additional insurance that POST will be notified of previous officers who no longer may hold office. POST is allowing 30 days for the notification which is consistent with other required employment status notifications. The text: “following the final adjudicative disposition” is necessary so that agencies do not send POST these notifications while appeals are still being heard.

- (2) **Documentation.** The written notification shall be sent on department letterhead and include:
- a. The name of the former peace officer
 - b. The disqualification reason pursuant to G.C. §1029
 - c. Case number
 - d. Name of the adjudicating court
 - e. Date of adjudication
 - f. Official documentation substantiating the disqualification

Reason: This text was added to provide investigating agencies with specified data to submit to POST when notifying POST of an officer's disqualification. If this specificity was not provided, POST would receive notifications that may or may not have the information POST needs in order to verify and record the disqualification in the POST database.

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Commission on Peace Officer Standards and Training Proposed changes to Regulation 9073(b)

§ 9073 (a) Records Supervisor Certificate

Continued ***

(b) Notice of Appointment Requirement

~~A Notice of Appointment form, [POST 2-114](#), shall be completed and mailed with the application for the certificate.~~ Prior to submitting an application for a POST Records Supervisor Certificate, POST shall have been notified of the records supervisor's appointment pursuant to the requirements in Regulation [§9040\(a\)\(1\)\(A\)3](#).

Reason: This text was amended for consistency with proposed Regulation § 9040(a)(1)(A)3.

(c) Application Requirements

Continued ***

Authority cited: Sections 13503, 13506, and 13510.3, Penal Code.

Reference: Section 13510.3 Penal Code.